

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

HAWAII CARPENTERS TRUST)	CV. NO.08-00034 HG-BMK
FUNDS , <i>Health & Welfare Fund,</i>)	
<i>Apprenticeship & Training Fund,</i>)	FINDING AND
<i>Vacation & Holiday Fund, Market</i>)	RECOMMENDATION THAT
<i>Recovery Program, Financial</i>)	PLAINTIFFS' MOTION FOR
<i>Security Fund, Retiree Medical</i>)	DEFAULT JUDGMENT BE
<i>Fund, 401-K Fund, by their trustees,</i>)	GRANTED
)	
Plaintiffs,)	
)	
vs.)	
)	
ABEL P. LEE; JOHN DOES 1-100;)	
JANE DOES 1-100; DOE)	
CORPORATION S 1-100; DOE)	
PARTNERSHIPS 1-100; DOE)	
ENTITIES 1-100; DOE)	
GOVERNMENTAL UNITS 1-100 ,)	
)	
Defendants.)	
_____)	

FINDING AND RECOMMENDATION THAT PLAINTIFFS' MOTION FOR
DEFAULT JUDGMENT BE GRANTED

Plaintiffs filed a complaint against Defendant Abel Lee ("Defendant") on January 22, 2008, alleging that he owed them delinquent trust fund contributions of \$557.40 for the period between July 2002 and September 2007. Plaintiffs sought to recover these delinquent contributions, plus liquidated damages

in the amount of \$10,610.71. Defendant was served with the complaint on February 4. He failed to file an answer within 20 days, and default was entered in favor of Plaintiffs on February 28, 2008.

Now before the Court is Plaintiffs' motion for default judgment. Plaintiffs seek damages in the amount of \$11,168.11, "inclusive of liquidated damages and additional per diem interest from March 14, 2008 until satisfaction of judgment."¹ (Mem. Supp. Mot. 6.) Plaintiffs also seek attorneys' fees actually incurred in the amount of \$1,562.65, costs in the amount of \$65.00, and prospective attorneys' fees in the amount of \$890.05.

Plaintiffs have provided, at Exhibit 4, a document showing the delinquent contribution amounts to each of the separate trust funds. Based on this information, the Court FINDS that Plaintiffs are owed \$557.40 in delinquent contributions.

The Court requested additional information from Plaintiffs regarding the liquidated damages, and after reviewing that information, the Court also FINDS that Plaintiffs are owed \$10,610.71 in liquidated damages. The parties'

¹The Court notes that in the discussion section of their motion for entry of judgment, Plaintiffs request the unpaid contributions, plus the liquidated damages, "plus interest at the rate of twelve (12%) percent." (Mem. Supp. Mot. 4.) In the conclusion of their motion, however, they claim that the total amount sought of \$11,168.11 is "inclusive of . . . per diem interest." (Mem. Supp. Mot. 6.) The Court will construe this ambiguity in favor of the lower amount requested, or for a total award of \$11,168.11 plus attorney's fees.

agreement provides that Plaintiffs are entitled to “liquidated damages in the amount of twenty percent (20%) of such delinquent and unpaid contribution due to each respective Fund or twenty dollars (\$20.00), whichever is greater, for each and every delinquent monthly contribution.” (Mem. Supp. Mot. Ex. 1, at 15.)

Plaintiffs’ Exhibit 6 shows that the liquidated damages of \$10,610.71 were calculated not just on the \$557.40 that remains outstanding, but on nearly \$55,000 in delinquent contributions over the five year period. While Defendant appears to have paid off the bulk of these delinquent contributions, he appears not to have paid off the liquidated damages that were assessed.

Finally, the Court FINDS that Plaintiffs are entitled to the \$2,517.70 they seek in attorneys’ fees and costs, pursuant to the underlying agreement between the parties.

Accordingly, the Court hereby RECOMMENDS that Plaintiffs’ motion for entry of judgment be GRANTED, and that judgment be entered in favor of Plaintiffs in the amount of **\$13,685.81**.

IT IS SO FOUND & RECOMMENDED.



/s/ Barry M. Kurren
United States Magistrate Judge
Dated: April 16, 2008

Hawaii Carpenters Trust Funds v. Abel P. Lee; Cv. No. 08-00034 HG-BMK; FINDING AND RECOMMENDATION THAT PLAINTIFFS' MOTION FOR DEFAULT JUDGMENT BE GRANTED.